

REMARKS

In the Final Office Action¹, the Examiner rejected claims 1-22 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,953,724 to Lowry et al. (“Lowry”) in view of “How to program C++” to Deitel et al. (“Deitel”).

By the present amendment, Applicant proposes to amend claims 1 and 21-22, and add new claim 23. Upon entry of the claim amendments, claims 1-23 will remain pending in this application.

Applicant respectfully traverses the Examiner’s rejection of claims 1-22 under 35 U.S.C. § 103(a) as being unpatentable over *Lowry* in view of *Deitel*. A *prima facie* case of obviousness has not been established with respect to these claims.

The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. Such an analysis should be made explicit and cannot be premised upon mere conclusory statements. See *M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007)*. “A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention.” *M.P.E.P. § 2145*. Furthermore, “[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art” at the time the invention was made. *M.P.E.P. § 2143.01(III), internal citation omitted*. Moreover, “[i]n determining the differences between the prior art and

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.” *M.P.E.P. § 2141.02(I)*, internal citations omitted (emphasis in original).

“[T]he framework for objective analysis for determining obviousness under 35 U.S.C. § 103(a) is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q 459 (1966) . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the difference between the claimed invention and the prior art.” *M.P.E.P. § 2141(II)*. Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” *M.P.E.P. § 2141(III)*.

Claim 1, as proposed to be amended, recites, among other things a first area and a second area, “wherein, the edges of the second area are included within the edges of the first area to indicate an inclusion relationship between the parent class and the respective child class” (emphasis added). *Lowry* and *Deitel* do not teach at least these elements of claim 1, and do not render claim 1 obvious.

Lowry discloses a hierarchical graphical chart 50 formed from records in a global database library (*Lowry*, abstract). *Lowry*’s chart 50 includes “[n]odes 52 that are at different hierarchical levels 54 and are linked by branches 56 [and] are sometimes referred to as having parent/child relationships” (*Lowry*, col. 4, lines 61-63). *Lowry*’s chart can be created using a chart manager user interface 90 (*Lowry*, FIG. 5A and col. 7, lines 48-58). However, such a disclosure does not constitute a display “wherein, the edges of the second area are included within the edges of the first area,” as recited in

claim 1 (emphasis added), because *Lowry* uses hierarchical branches and nodes to indicate parent/child relationships and does not enclose one node within another node.

On pages 4 and 17 of the Final Office Action, the Examiner alleges that Fig. 2A of *Lowry* constitutes the claimed display, and that nodes 52 corresponds to the claimed objects or classes. However, this is not correct. Even assuming that nodes 52 in *Lowry* could constitute the claimed “first area representing the parent class” or “second area . . . representing each child class,” which Applicants do not concede, the nodes in *Lowry* are displayed separately and spaced from one another (*Lowry*, Fig. 2A). In contrast, claim 1 displays a first area and a second area wherein “wherein, the edges of the second area are included within the edges of the first area to indicate an inclusion relationship between the parent class and the respective child class” (emphasis added). *Lowry*, therefore, does not teach, suggest, or render obvious the claimed “first area representing the parent class, the first area including edges enclosing the first area; and a second area within the first area, the second area having edges and representing a child class; wherein, the edges of the second area are included within the edges of the first area to indicate an inclusion relationship between the parent class and the respective child class,” (emphases added) as recited in claim 1.

Deitel fails to cure the deficiencies of *Lowry*, because *Deitel* does not teach, suggest, or render obvious a first area and a second area, “wherein, the edges of the second area are included within the edges of the first area to indicate an inclusion relationship between the parent class and the respective child class” (emphasis added) as recited in proposed claim 1.

As discussed, “[i]n determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves

would have been obvious, but whether the claimed invention as a whole would have been obvious.” *M.P.E.P.* § 2141.02(I), internal citations omitted (emphasis in original).

Here, no *prima facie* case of obviousness has been established for at least the reason that, in view of the failure of *Lowry* and *Deitel* to teach the claimed combination, as discussed above, the Office Action has not properly determined the scope and content of the references and has accordingly not properly ascertained the difference between the references and the subject matter of claim 1. Regarding the differences that have been cited, no reason has been provided as to why one of ordinary skill in the art, at the time the invention was made, would modify *Lowry* and *Deitel* to achieve the claimed combination. Moreover, the Office Action has not identified any predictability or reasonable expectation of success of such a modification.

For at least these reasons, the Office Action has failed to clearly articulate a reason why *Lowry* and *Deitel* would render the claimed combination obvious to one of ordinary skill in the art. Thus no *prima facie* case of obviousness has been established with respect to claim 1.

Independent claims 21 and 22, while of different scope, recite elements similar to those of claim 1 and are thus allowable over *Lowry* and *Deitel* for at least the same reasons discussed above in regard to claim 1. Claims 2-20 are also allowable at least due to their dependence from claim 1.

Accordingly, Applicants request that the Examiner, enter these amendments, withdraw the rejection of claims 1-22 under 35 U.S.C. § 103(a), and allow the claims.

Moreover, Applicant submits that neither *Lowry* nor *Deitel* teach, suggest, or render obvious the subject matter of claim 23. For example, neither *Lowry* nor *Deitel* teach, suggest, or render obvious at least “an update unit configured to update the

second flag to 'ON' when the second flag is set to 'OFF' and inheritably update the first flag to 'ON' when the first flag is set to 'OFF', wherein the first flag and the second flag is updated when an instance is added to the lower level class.'" Accordingly, claim 23 is also allowable over *Lowry* and *Deitel*.

CONCLUSION

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1-23 in condition for allowance. Applicant notes that, in the Final Office Action, the Examiner rejected claims 1-22 under a newly cited reference (*Deitel*). Further, the Final Office Action included new arguments as to the application of *Lowry* against Applicant's invention. It is respectfully submitted that the entering of the Amendment would allow the Applicant to reply to the Final Office Action. Finally, Applicant submits that the entry of this Amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicant submits that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

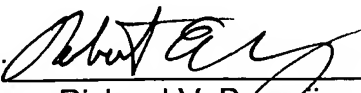
Please grant any extensions of time required to enter this response and charge
any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

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